

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

THOMAS JULIAN, JR.,)
Petitioner,)
v.)
COMMONWEALTH OF)
PENNSYLVANIA; THE ATTORNEY)
GENERAL OF THE STATE OF)
PENNSYLVANIA; and THE DISTRICT)
ATTORNEY OF THE COUNTY OF)
ALLEGHENY)
)
Respondents.

MEMORANDUM ORDER

On November 9, 2010, the above captioned case was initiated by the filing of a Petition for Writ of Habeas Corpus (ECF No. 1) and was referred to a united states magistrate judge for pretrial proceedings in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrate Judges.

The magistrate judge filed a Report and Recommendation on November 22, 2010 (ECF No. 3) recommending that the Petition for Writ of Habeas Corpus be dismissed as without prejudice and that a certificate of appealability be denied. On December 8, 2010, and December 13, 2010, Petitioner filed Objections to the Report and Recommendation (ECF Nos. 4-5). Petitioner's objections do not undermine the recommendation of the magistrate judge.

After *de novo* review of the pleadings and documents in the case, together with the Report and Recommendation, and the Objections thereto, the following order is entered:

AND NOW, this 22nd day of December, 2010;

IT IS HEREBY ORDERED that the Petition for Writ of Habeas Corpus is
DISMISSED without prejudice.

IT IS FURTHER ORDERED that a certificate of appealability is **DENIED**.

IT IS FURTHER ORDERED that the Report and Recommendation (ECF No. 3) is
ADOPTED as the Opinion of the Court.

IT IS FURTHER ORDERED that the Clerk of Court mark this case **CLOSED**.

AND IT IS FURTHER ORDERED that pursuant to Rule 4(a)(1) of the Federal Rules of Appellate Procedure, Plaintiff has thirty (30) days to file a notice of appeal as provided by Rule 3 of the Federal Rules of Appellate Procedure.

s/ David Stewart Cercone
David Stewart Cercone
United States District Judge

cc: Thomas Julian, Jr.
Inmate #93198
Allegheny County Jail
950 Second Avenue
Pittsburgh, PA 15219-3100